

FOCUS OFIS

Newsletter of the Michigan Office of Financial and Insurance Services

Commissioner Watters Goes to Bat for Consumers in U.S. Supreme Court

Court's decision to hear Watters v. Wachovia case has national implications

A case brought on behalf of OFIS appealing the right of state government to protect consumers through the regulation of mortgage subsidiaries of national banks was heard by the United States Supreme Court on November 29, 2006.

In *Watters v. Wachovia*, the issue is whether state-chartered subsidiaries of national banks are exempt from state regulation because of their relationship with a national bank – even when the Office of the Comptroller of the Currency (OCC) fails to follow up on a consumer complaint.

In 2003, Wachovia Bank converted a mortgage company through which it had conducted business in Michigan into an operating subsidiary of the national bank

headquartered in North Carolina. Wachovia then informed OFIS that it would no longer be required to be registered in Michigan, claiming that regulations passed by the OCC preempted state mortgage laws over state-chartered subsidiaries of national banks.

OFIS notified Wachovia that without registration, it would no longer be allowed to conduct mortgage lender, broker and servicer activities in Michigan.

Wachovia sued OFIS and won in federal district court and the 6th Circuit Court of Appeals. OFIS appealed these decisions all the way to the U.S. Supreme Court.

The case has huge implications for state regulators across the country. The enforcement of consumer protection laws has always been a traditional role of state government. State regulators are best equipped to respond to consumer protection matters within their respective jurisdictions.

Numerous briefs have been filed in support of OFIS' position, including a brief prepared by the New York Attorney General, which was endorsed by every state attorney general in the nation, including those of Washington, D.C., and Puerto Rico.

Other briefs in support were filed by the Maryland Commissioner for Financial Regulation and the American

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Taking the fight to Washington, front row, from left to right: Linda Watters, OFIS Commissioner; Ken Ross, OFIS Chief of Staff. Back row, left to right: Thomas E. Casey, Solicitor General, Attorney General's office; John Blanchard, Assistant Attorney General, Insurance and Banking Division, Attorney General's office; Dick Lavolette, OFIS Chief Deputy Commissioner; Jessica Danon, Assistant Attorney General, Insurance and Banking Division, Attorney General's office.

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Commissioner's Corner

Happy New Year! I hope that you had a safe and joyous holiday season.

The end of another year is always a time to look back and reflect on events and accomplishments, and at OFIS, there have been many. A definite highlight for me was the trip to Washington, D.C. on November 29 where the U.S. Supreme Court heard oral arguments on *Watters v. Wachovia*. The show of support we received from so many organizations around the country demonstrated the national significance of the case. Michigan consumers and consumers in every state deserve to be protected by regulators who are looking out for their best interests, and we look forward to receiving the Supreme Court's decision.

In another hearing this fall, the Michigan Court of Appeals reviewed the legality of the use of credit scores in setting insurance rates. The appeals hearing followed the ruling by Judge James H. Fisher to strike down rules I issued that banned the use of insurance credit scoring in the rating and underwriting of automobile, home and other personal lines of insurance. The decision is expected to be issued in the next couple of months, and we are optimistic that the court will uphold the rules.

We were pleased to be recognized with a Top 100 award from InfoWorld magazine for our updated database system. The project brought together 14 databases and five Web sites of three agencies into one system, saving the state millions of dollars in up-front license costs and untold hours and dollars in implementation and employee retraining.

These are just a few recent highlights of a very productive year protecting Michigan consumers, working with our regulated entities and earning the trust of those we strive to protect. I am proud of our 2006 achievements and look forward to meeting the challenges and opportunities of 2007.

Remember, OFIS is always available to assist consumers and the industry. Please don't hesitate to contact our office toll-free at 1 (877) 999-6442 or at www.michigan.gov/ofis.



Commissioner Watters holds some of the Christmas presents from under the St. Vincent Catholic Charities Giving Tree. OFIS staff generously purchased gifts for 95 needy Lansing-area children.

Linda A. Watters
Linda A. Watters
Commissioner

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Association of Residential Mortgage Regulators; the National Conference of State Legislatures, the National Governors Association, the Council of State Governments, the National League of Cities, the National Association of Counties, the International City/County Management Association, the U.S. Conference of Mayors, and the Conference of State Bank Supervisors; the National Association of Realtors, and the Center for State Enforcement of Antitrust and Consumer Protection Laws; and the Center for Responsible Lending, which was signed by 12 public interest groups and 17 law school professors.



Left: Visiting Haitian credit union examiners Nancy Dorsainvil and Patrick Leger stand on the Capitol steps

Below, from left to right: Commissioner Linda Watters, Patrick Leger, Nancy Dorsainvil, and Deputy Commissioner for Credit Unions Roger Little



OFIS recently hosted visiting credit union examiners as part of an examiner exchange program with the Central Bank of Haiti in conjunction with the Caribbean Regional Technical Assistance Center (CARTAC) and the International Monetary Fund. Patrick Leger and Nancy Dorsainvil of the Bank of the Republic of Haiti spent two weeks studying OFIS' supervisory system and determining what practices they may carry over to their own supervisory system.

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OFIS Wins Top 100 Award from InfoWorld Magazine for Database System

Updated system recognized for delivering information efficiently, improving services

OFIS and DIT have received a Top 100 Information Technology award from InfoWorld magazine for 2006.

The awards are given to those organizations that have made the best use of technology to improve their business. OFIS was one of five government agencies nationwide to be recognized.

According to InfoWorld, OFIS was selected because "The state's Office of Financial and Insurance Services merged three agencies, five Web sites, and 14 different databases that previously were not interconnected. It added efficiency and new capabilities, such as online transaction options, to an outdated system. It saved the State of Michigan millions of dollars, and ensured taxpayers did not bear the burden of a system overhaul. The project benefits the OFIS employees who were able to complete their daily functions throughout the duration of the transition. Every day, the updated system ensures the efficient supply of information to hundreds of thousands of Michigan citizens."

OFIS was created in 2000 by merging three separate State of Michigan agencies in an effort to coordinate regulation of financial institutions, insurance and securities industries in response to the federal Financial Services Modernization Act of 1999. Today, OFIS has 275 employees.

Due to new government mandates and the consolidation of multiple

departments, OFIS was forced to decide between either custom building or buying a whole new information technology infrastructure. Either option required the investment of millions of dollars, large-scale efforts to re-train and/or hire staff and would take several years to implement.

To avoid a costly and difficult architecture and software re-design, OFIS management instead enlisted Sybase Professional Services (SPS) to update its existing system.

With the help of Sybase, OFIS was able to successfully update its current system, extending the system's life cycle, saving the state millions of dollars in up-front license costs and untold hours and dollars in implementation and employee retraining. The resulting system now delivers performance that

is proving to be a model for other state agencies, both within Michigan and throughout the U.S.

Commissioner Linda Watters praised the Michigan Department of Information Technology for its partnership and support in helping OFIS win the award.

OFIS' efforts to improve its information technology system and provide more online services supports Gov. Jennifer M. Granholm's comprehensive Jobs Today, Jobs Tomorrow plan to grow Michigan's economy by attracting new business, helping new companies get off the ground, and diversifying the economy. For more information on the InfoWorld awards, visit: http://www.infoworld.com/print_issue/archive/latest_print_issue.html.



Commissioner Watters and Consumer Services Deputy Commissioner Cathy Kirby hold the InfoWorld Top 100 award

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OFIS Securities Division Provides Investor Education, Outreach to Consumers

OFIS Sponsors Free Informational Investment Seminar for Flint Residents

OFIS recently joined with AARP Michigan, the Securities Exchange Commission (SEC) and the Michigan State Bar to offer a free informational seminar aimed at older investors in Flint.

The “Safe Investing Forum” was conducted by experts from OFIS, AARP, the SEC and the state bar. It provided consumers with information on safe investing, investment scams, and recognizing misleading marketing tactics.

Con artists, fraudsters and unscrupulous bad actors continue to target seniors with one goal in mind – separating them from their hard earned savings. Savvy seniors had a chance to hear the latest information from OFIS’ unbiased experts who work 24/7 to protect Michigan consumers.

The seminar was funded by a grant from the Investor Protection Trust (<http://www.investorprotection.org>), which is designed to provide independent, objective information needed by consumers to make informed investment decisions.



Securities manager Linda Cena addresses a group of consumers at a recent investment seminar

“Investment Minute” Radio Series Offers Valuable Information to Citizens

Michigan citizens interested in learning more about investing and protecting their money can get useful, unbiased information through a new educational radio series, “The Investment Minute,” being broadcast statewide throughout this year.

The year-long series, sponsored by the Securities Division of OFIS, consists of 115 different one-minute snippets of investor education information offered in an easy-to-understand format. A wide variety of investment-related subjects are covered during the course of the series, including tips on how to spot an investment scam, how to choose a stockbroker and how a mutual fund works.

The Investment Minute will be broadcast over 57 AM and FM radio stations across Michigan that represent virtually every type of radio format including talk and all varieties of genres.

OFIS’ goal in offering these spots is to reach a broad listening audience because the investment information will be valuable for all age groups and income levels. People of every age, ethnicity, religion and income have been the victims of investment fraud at one time or another, and investor education is the most effective weapon available to fight investment fraud.

The Investment Minute series is funded entirely by a grant from the Investor Protection Trust to the Securities division of OFIS. Several other Investor Education projects are in the works, including a statewide series of *Investor Education @ Your Library* seminars focusing on rural areas.

OFIS outreach efforts include partnering with such organizations as AARP, the Michigan Library Association, and the Investor Protection Trust to bring new and innovative programs that provide critical information to Michigan citizens.



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Bulletins & Letters Recently Released

(Bulletins and letters can be viewed on the OFIS website at www.michigan.gov/ofis under the Bulletins section.)

- [Letter No. 2006-CU-02](#) — provides safety and soundness guidelines for Michigan state-chartered credit unions electing to participate in the Career Transition Program.
- [Letter 2006-CU-09](#) – Credit union operating statistics derived from September 30, 2006 call reports.

OFIS Issues Best Practices For the Marketing of Nontraditional Mortgage Products

OFIS has issued a set of regulatory “best practices” covering the marketing of nontraditional mortgages by state-licensed entities.

These best practices are based upon guidance developed by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) and apply to state-licensed mortgage brokers and companies.

The guidance is designed to promote consistent regulation in the mortgage market and to clarify how residential mortgage providers can offer nontraditional mortgage products in a way that clearly discloses the risks borrowers may assume. It is intended to level the playing field in the mortgage market in order to protect consumers from taking on high-risk mortgages without having a full understanding of the terms of such loans.

These mortgage products are quite complicated and may not be appropriate for many consumers, so homebuyers need to be fully informed before they make such a major decision.

Nontraditional mortgage products include interest-only mortgages and payment option adjustable-rate mortgages. These products allow borrowers to exchange lower

payments during an initial period for higher payments later for the life of the mortgage.

The CSBS/AARMR guidance parallels final guidance released on September 29, 2006 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration.

The interagency guidance, however, applies only to insured financial institutions and their affiliates. To promote consistency, the CSBS/AARMR guidance substantially mirrors the interagency guidance, except for the deletion of sections inapplicable to non-depository institutions.

Commissioner Watters commented that CSBS and AARMR’s goal is for all states to adopt the guidance so that all consumers will be equally protected and all originators of residential mortgages will be subject to similar supervisory guidance.

The regulatory guidance can be found on the OFIS web site at www.michigan.gov/ofis under “What’s New.”

Mortgage Corner



OFIS to Begin Collecting Non-Traditional Mortgage Data Licensed entities need to begin tracking data for OFIS annual report

On October 4, 2006, the federal regulatory agencies issued guidance regarding mortgage originations by depository-insured financial institutions. On November 14, 2006, CSBS and AARMR issued parallel guidance to cover state-licensed mortgage entities. The guidance is meant to promote consistent regulation in the mortgage market and to clarify how providers can offer non-traditional mortgage products in a way that clearly discloses the risks that borrowers might assume upon entering into such a contract. The guidance can be found on the OFIS web site at: http://www.michigan.gov/documents/cis/CSBS-AARMR_FINAL_GUIDANCE_revised_181399_7.pdf.

OFIS will collect information on the calendar year 2007 sales of non-traditional mortgage products secured by dwelling property located in Michigan on the next mortgage annual report, which will be due on or about February 28, 2008.

Licensees/registrants NOTE: Please adjust your record keeping system to track the sales of non-traditional mortgage products during calendar year 2007. This information will be required for next year’s report.

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Save Money on Home and Renters Insurance OFIS Releases the 2006 Buyers' Guide to Home and Renters Insurance

The 2006 Buyers' Guide to Home and Renters Insurance is available online and in hard copy. The guide contains information and tips about purchasing homeowners and renters insurance. It also includes the results of an annual survey of insurers offering home, rental and condominium insurance in different areas of the state. This information provides consumers with information about rates charged by these insurers. It is an important part of the overall effort of the Granholm Administration to help protect and aid consumers.

Consumers can often save hundreds of dollars by simply picking up the phone and comparing insurance rates. To make this process easier, consumers can use this guide as they shop for the best deal on home insurance.

OFIS constantly stresses that consumers shop around to receive the best price for home insurance. Consumers who renew insurance, or purchase insurance for the first time, should not assume that the first quote they receive is the best price they can get. Shopping around to many different insurance companies will allow them to choose the best available premium rate.

Insurance rates can vary from company to company, so it's important to shop around. The 2006 Buyers' Guide to Home Insurance is a valuable tool for doing that effectively.

Because discounts can drastically affect the premiums consumers pay, the Guide now includes an example of how various discounts can reduce the final premium. The Guide also lists commonly used discounts and which companies provide them. Discounts listed include smoke detectors, deadbolts, fire extinguishers, and mature homeowners.

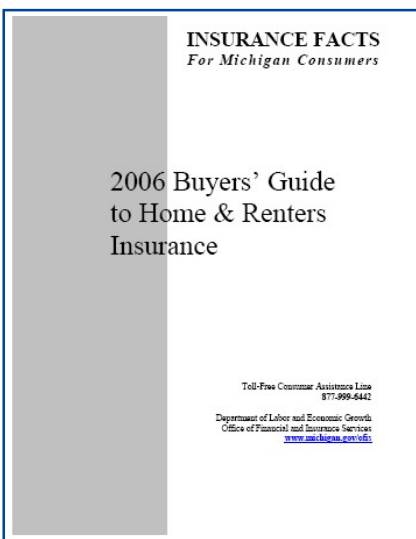
Consumers should definitely take a look at the list of discounts they can qualify for, and how much they can save. In some cases, the initial premium can be cut in half after taking advantage of all the available discounts. The rates given in the Guide reflect some but not all available discounts, so consumers should be sure to ask for all available discounts when they receive quotes.

Another important resource for consumers is the interactive version of the buyers' guide, which also can be found on the OFIS website. It allows users to choose a profile that most closely fits their situation and location to get a general idea of rates for home insurance. The user can review sample rates for a select list of companies or review rates for all home insurance companies in Michigan.

The 2006 Buyers' Guide to Home Insurance can be reviewed and downloaded on the Internet at www.michigan.gov/ofis under Publications / Guides / Homeowners/ Renters Insurance. Hard copies of the guide also are available by contacting OFIS toll free at (877) 999-6442.

Other homeowners and renters insurance information that can be found on the OFIS website includes:

- Information on Purchasing Home and Renters Insurance
- Flood Insurance: What You Need To Know
- Home Business Insurance
- Homeowners Insurance: Are You Eligible?
- Homeowners Insurance: Replacement Cost vs. Repair Cost Policies
- Seguro de Propietarios de Vivienda Comparacion de las pólizas de Costo de Reemplazo Con las de Costa de Reparaciones
- Renter's Insurance: A Smart Buy
- The Michigan Basic Property Insurance Association
- Title Insurance
- Online Customer Satisfaction Survey for Home and Renters Insurance Web Pages



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OFIS Advises Consumers to Make Wise Spending Decisions Tips will help consumers avoid costly fees, financial pitfalls

Consumers should use caution and avoid common pitfalls when using their checking accounts, credit cards and other financial services. Using some basic financial management tools can help consumers prevent unintended losses and the consequences that may occur.

The FDIC recently issued a list of financial pitfalls in its online newsletter, *FDIC Consumer News*. Some of the more common slip-ups that can trigger fees, penalties or other costs are:

- **Not checking up on your checking account.** Lack of attention to the account balance can result in fees for bounced checks or for going below a required minimum balance. Also, if a customer fails to spot fraudulent transactions, fixing those can be costly and time consuming.
- **Paying a credit card bill late, even if it's only by a day.** A late card payment can trigger a fee of about \$30 or more. In addition, the consumer also may face a major hike in the interest rate – often to between 29 and 35 percent – on this credit card and possibly other cards or loans, especially if the person's credit record shows other signs of risk.
- **Signing up for a new credit card without understanding the costs.** “Zero-percent interest” and other incentives for applying for a credit card may sound great, but the various freebies could end up being expensive if the consumer is penalized for not following the rules of the new card. Repeatedly signing up for new cards also can send signals that the person is more of a credit risk, which can result in a higher interest rates being charged the next time he or she applies for a mortgage or other loans.
- **Not considering fees when opening a bank account.**

A high interest rate or Annual Percentage Yield (APY) on a checking account is definitely an attention grabber. But that great rate shouldn't divert your attention from fees that can significantly reduce, if not wipe out, your earnings. Examples include monthly fees for going below a minimum balance, monthly or quarterly “inactivity” fees if you've had no deposits or withdrawals for a certain time period, and annual service charges on Individual Retirement Accounts (IRAs).

Consumers should also be on the lookout for scams, such as fraudulent e-mails claiming to be from the FDIC in an attempt to obtain valuable information from consumers and businesses, or unsolicited e-mails supposedly from a financial institution or government agency. These emails are really from criminals asking consumers to call a phone number to provide bank account and other “needed” information using their telephone keypad. Once the information is entered, it can be used by crooks to gain unauthorized access to bank accounts or commit identity theft.

More tips and information on financial matters are available online at the *FDIC*

Consumer News. The fall 2006 issue can be viewed at www.fdic.gov/consumers/consumer/news/cnfall06.

3rd Quarter CU Info

OFIS compiles information on state-chartered credit unions, both individually and in the aggregate, and has issued the third quarter financial results.

The number of Michigan state-chartered credit unions declined by two during the third quarter of 2006. Fifty-six credit unions reported a decline in assets greater than 5%. Aggregate net worth increased from 11.80% to 12.02%. Return on average assets declined three basis points to .63% and operating expenses increased five basis points. Fifty-five credit unions reported an ROAA of less than .20%. The aggregate delinquency ratio increased slightly to 1.07% and the net charge-off ratio decreased to .59%.

More detailed third quarter information (including charts and graphs) about state-chartered credit unions can be found at the Credit Union Division website at www.michigan.gov/ofis under Industry Services/ Credit Union/Credit Union Letters.

Recent Commissioner's Orders

- ◆ Robert J. Murphy d/b/a Cyber Investment Management was ordered to Cease and Desist pursuant to the Michigan Uniform Securities Act.
- ◆ Pappas and Associates Mortgage, Inc. was ordered to Cease and Desist and was ordered to pay a \$5,000 civil fine. They have been ordered to maintain a program to monitor and assure compliance with all state and federal laws and regulations pertaining to brokering, origination, closing, and servicing of mortgage loans.
- ◆ Lamar J. Matthews/Matthews Consultants has been ordered to Cease and Desist under the Michigan Uniform Securities Act.
- ◆ Supreme Mortgage has been ordered to Cease and Desist and pay a civil fine of \$3,000. They have been ordered to maintain a program to monitor and assure compliance with all state and federal laws and regulations pertaining to brokering, origination, closing, and servicing of mortgage loans.
- ◆ Theresa M. Gorka d/b/a Crescent Financial and Real Estate Services had her first mortgage broker/lender license revoked.
- ◆ Raymond Levandoski has been ordered to Cease and Desist for violating the Michigan Insurance Code.
- ◆ Kevin T. Rushlo has been ordered to Cease and Desist and had his resident producer license revoked.
- ◆ The Mortgage Store has been ordered to Cease and Desist and pay a civil fine of \$3,000. They have been ordered to maintain a program to monitor and assure compliance with all state and federal laws and regulations pertaining to brokering, origination, closing, and servicing of mortgage loans.
- ◆ Phoenix Rising Associates has been ordered to Cease and Desist under the Michigan Securities Act.
- ◆ Patrick L. Fuller was ordered to Cease and Desist and pay a civil fine for violations of the Insurance Code.

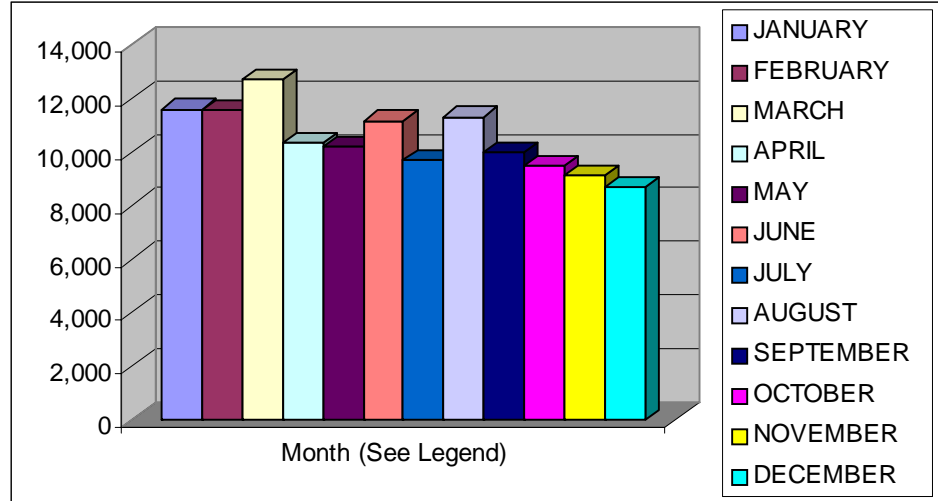
(This is a sample of Commissioner's Orders for the third quarter of 2006 and is not a comprehensive list .)

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OFIS Consumer Protection: Communications Center Calls Received

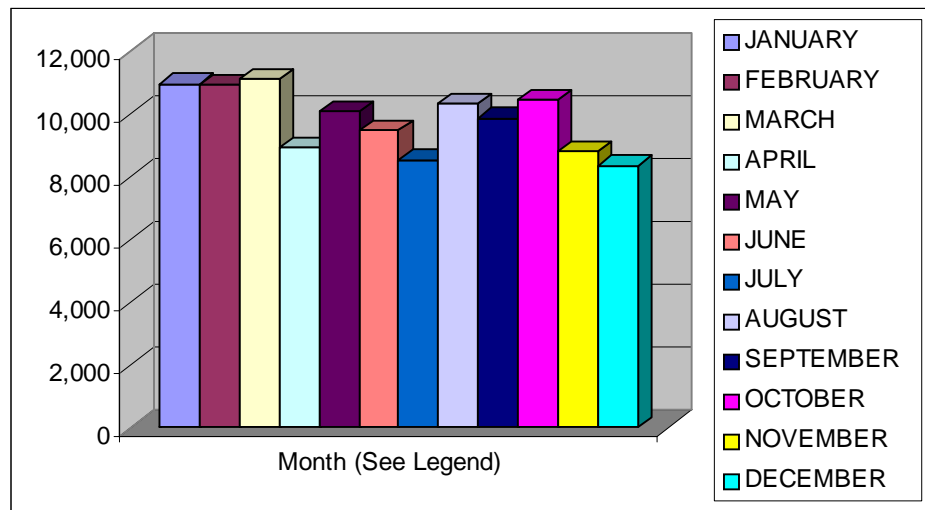
2005 Consumer and Regulatory Calls

January	11,615
February	11,557
March	12,726
April	10,323
May	10,189
June	11,166
July	9,707
August	11,328
September	9,995
October	9,482
November	9,112
December	8,682



2006 Consumer and Regulatory Calls

January	10,984
February	10,946
March	11,143
April	8,951
May	10,106
June	9,502
July	8,564
August	10,338
September	9,896
October	10,476
November	8,808
December	8,375



Consumer Dollars Recovered

2004:
\$8,765,576.50

2005 :
\$11,175,416.77

2006 (through December 31):
\$12,614,049.00

OFIS consumer protection actions often result in money recovered for Michigan consumers. These recoveries include dollars recovered by OFIS for consumers filing insurance, securities, bank, credit union, Blue Cross, HMOs, and mortgage company complaints.